

Order Directing Plaintiff to Locate Unserved Defendants; Instructions to Clerk
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1 showing of “good cause,” is subject to dismissal without prejudice as to the unserved
 2 Defendants. *See* Fed. R. Civ. P. 4(m). In cases wherein the Plaintiff proceeds in forma pauperis,
 3 the “officers of the court shall issue and serve all process.” 28 U.S.C. § 1915(d). The Court
 4 must appoint the Marshal to effect service, *see* Fed. R. Civ. P. 4(c)(2), and the Marshal, upon
 5 order of the Court, must serve the summons and the complaint, *see Walker v. Sumner*, 14 F.3d
 6 1415, 1422 (9th Cir. 1994), *overruled on other grounds by Sandin v. Connor*, 515 U.S. 472
 7 (1995). Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on
 8 service by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate such
 9 service;” rather, “[a]t a minimum, a plaintiff should request service upon the appropriate
 10 defendant and attempt to remedy any apparent defects of which [he] has knowledge.” *Rochon v.*
 11 *Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). If the Marshal is unable to effectuate service
 12 through no fault of his own, for example, because plaintiff failed to provide sufficient
 13 information or because the defendant is not where plaintiff claims, and plaintiff is informed,
 14 plaintiff must seek to remedy the situation or face dismissal. *See Walker*, 14 F.3d at 1421-22
 15 (prisoner failed to show cause why prison official should not be dismissed under Rule 4(m)
 16 because prisoner did not prove that he provided Marshal with sufficient information to serve
 17 official or that he requested that official be served).

18 Because Plaintiff has not yet provided sufficient information to allow the Marshal to
 19 locate and serve Defendants Kachare, Remington, Bowman, Rodriguez, and Moses, Plaintiff
 20 must remedy the situation or face dismissal of his claims against said Defendants without
 21 prejudice. *See Walker*, 14 F.3d at 1421-22. Accordingly, Plaintiff must provide the Court with
 22 accurate and current information for Defendants Kachare, Remington, Bowman, Rodriguez, and
 23 Moses such that the Marshal is able to effect service upon them. **Failure to do so within thirty**
 24 **days of the date this order is filed will result in the dismissal without prejudice of the**
 25 **claims against Defendants Kachare, Remington, Bowman, Rodriguez, and Moses.**

26 Plaintiff is also reminded that it is his responsibility to prosecute this case. Mail sent to
 27 Plaintiff on April 13, 2011, was returned as undeliverable on April 25, 2011. Plaintiff must keep
 28 the Court and all parties informed of any change of address and must comply with the Court’s

1 orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to
2 prosecute pursuant to Federal Rule of Civil Procedure 41(b). **The Clerk is directed to change**
3 **Plaintiff's address to Tyshon Harmon, #K-08935, CSP-L.A. County, P.O. Box 4610,**
4 **Lancaster, CA 93539.**

5 IT IS SO ORDERED.

6 DATED: 5/24/11


LUCY H. KOH
United States District Judge